IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8206 OF 2004

Shivaji Hindurao Patil .. Petitioner.
Vs.
Nilesh alias Balasaheb
Vishwanath Sarnaik & Ors. .. Respondents.

Dr.V.K.Choudhari for the petitioner.

CORAM : D.B.BHOSALE, J.

DATED : 20TH OCTOBER, 2004

P.C.:

. Heard Mr.Choudhari, learned counsel for the petitioner.

2. By this petition, the petitioner has challenged the election of respondent no.1 as Director of respondent no.2 - society held on 26.7.2004 directly in this court relying on the judgment of this court in **Nanaji Ganuji Bhokre Vs. Commissioner, Amravati Division, Amravati & Ors. 1994 Mh.L.J. 1277**. I perused the said judgment. In that case the petitioner therein had challenged the order of the Commissioner dismissing the appeal filed under section 152-A of the Co-operative Societies Act, 1961 (for short "the Act"). In the

appeal the order rejecting the nomination paper for the election was being challenged. The writ petition was opposed on the ground of availability of alternate remedy under section 144-T of the Act. However, this court had entertained the writ petition holding that there is no alternate remedy available to the petitioner because of the peculiar legal position obtained on account of section 152-A and 144-T. This ratio, in my opinion, cannot be taken aid of since in the present writ petition, the petitioner seeks to challenge the election of respondent no.1 which can be questioned in a substantive dispute relating to election under section 144-T of the Act. The writ jurisdiction under Article 226 and 227 is not available to decide the election dispute merely because the appeal under section 152-A has been rejected by the Commissioner at the stage of scrutiny of the nomination paper. In any case after the elections, the only remedy open for the petitioner is to challenge the election under section 144-T of the Maharashtra Co-operative Societies Act. In view thereof this petition fails and is dismissed as such.

(D.B.Bhosale, J.)